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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,440	08/20/2003	Kevin A. Murphy	2002P14188US01;60,427-615	7038
24500	7590	06/16/2006	EXAMINER	
SIEMENS CORPORATION INTELLECTUAL PROPERTY LAW DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830		MCMAHON, MARGUERITE J		
		ART UNIT		PAPER NUMBER
		3747		

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	Application No.	Applicant(s)
	10/644,440	MURPHY, KEVIN A.
	Examiner Marguerite J. McMahon	Art Unit 3747

-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16, 18-20 and 22-33 is/are pending in the application.  
 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10, 13-15, 19-20, and 24-33 is/are rejected.  
 7) Claim(s) 22 and 23 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 11 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 3/29/06.

### ***Claim Rejections - 35 USC § 112***

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 recites that the first and second shells solely form the air path. This contradicts claim 1 from which it depends, since claim 1 recites that the air path is formed by first, second, and third portions.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 13-16, 18-20, 24-30, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kodweiss et al (6,830,024). Note an intake module assembly for a vehicle engine comprising: an air path extending from an air intake to an engine cylinder head; a first shell 20, 30 forming a first portion of said air path; a second shell 22 forming a second portion of said air path; at least one resonator 24 integrally formed as part of said first and second shells; and a throttle hose portion, not shown, but

connected to pipe 8 supported on at least one of said first or second shells forming a third portion of said air path wherein said first and second shells are joined together such that said first, second, and third portions together completely form said air path, wherein said first and second shells are welded together, including an intake manifold integrally and solely formed as part of said first and second shells, a throttle body (see column 1, lines 14-21), which is connected to the distributor pipe by way of a connection pipe 12 or hose, and zip tube 8. Kodweiss et al show everything except explicitly disclosing an air filter, the throttle body and hose portion being integrally formed as part of said first and second shells, and the first and second shells completely and solely forming the air path.

It would have been obvious to one having ordinary skill in the art to modify Kodweiss by including an air filter, since this is a conventional engine component, which is usually employed to filter the intake air.

In addition, it would have been obvious to one having ordinary skill in the art to modify Kodweiss by forming the throttle body and hose portion integrally as part of said first and second shells, since the device would function in the same way whether or not the throttle body and hose portion was attached to or formed integrally with the first and second shells, as evidenced by Applicant claiming it both ways.

Furthermore, it would have been obvious to one having ordinary skill in the art to modify Kodweiss by forming the first and second shells such that they completely and solely form the air path, since the device would function in the same way whether or not

the first and second shells completely and solely form the air path, as evidenced by Applicant claiming it both ways.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kodweiss et al (6,830,024) in view of Ma (6,085,712). Kodweiss et al show everything except the zip tube including an exhaust gas recirculation port. Ma teaches that it is old in the art to employ an exhaust gas recirculation port (near 90). It would have been obvious to one having ordinary skill in the art to modify Kodweiss et al by employing an exhaust gas recirculation (EGR) port in the zip tube 8, in order to provide exhaust gases to the combustion chamber, which improves engine efficiency and decreases emissions.

#### ***Allowable Subject Matter***

Claims 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marguerite J. McMahon whose telephone number is 571-272-4848. The examiner can normally be reached on Monday-Wednesday and Friday, 10am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Cronin can be reached on 571-272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MM  
MARGUERITE MCMAHON  
PRIMARY EXAMINER